

REMARKS

Upon entry of the amendment, claims 1-11, 13, 17-23, and 42-44 will be pending. Claims 1, 3, 7 and 9 are amended herein. The amendments to claim 1, 3, and 9 clarify that the fragment is a fragment of SEQ ID NO:1 that confers endothelial cell-specific expression. The amendment to claim 7, recites the promoters in the singular form. Therefore, the amendments are for clarification and/or grammatical in nature, and as such do not add new matter. Applicants respectfully request reconsideration of the pending claims in view of the Amendments and remarks herein.

Claim Rejection under 35 U.S.C. §112, First Paragraph

Claims 1-11, 13, 17-23, and 42-44 stand rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants respectfully traverse this rejection.

The Office Action alleges that claims 1, 3, and 9, from which the remaining rejected claims depend, are not adequately described by the specification because they are directed to a recombinant DNA that includes a fragment of a nucleotide sequence that "comprises" a disclosed nucleotide sequence. Therefore, the Office Action alleges that since the claims are directed to a fragment of a nucleic acid containing both disclosed and undisclosed sequence, the claimed nucleic acid encompasses a genus of nucleic acids having no structural limitation.

The amendments to claim 1, 3, and 9 clarify that the fragment is a fragment of SEQ ID NO:1 that confers endothelial cell-specific expression. Therefore, the claim is not directed to a recombinant DNA that includes a fragment of an undisclosed sequence. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-11, 13, 17-23, and 42-44 under 35 U.S.C. §112, first paragraph

In re Application of:

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Claim Rejection under 35 U.S.C. §112, Second Paragraph

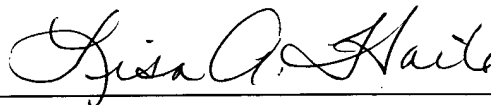
Claims 7 and 8 stand rejected under 35 U.S.C. § 112, Second Paragraph as being indefinite. Applicants respectfully traverse this rejection. Claim 7 is allegedly indefinite because the claim recites that the promoter is a promoter of a series of families of genes. As amended, claim 7 recites the genes in the series in singular form. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 7 and 8 under 35 U.S.C. §112, Second Paragraph.

In view of the amendments and the above remarks, it is submitted that the claims are in condition for allowance and a notice to that effect is respectfully requested. The Examiner is invited to contact Applicants' undersigned representative if there are any questions relating to this application.

Please charge any additional fees, or make any credits, to Deposit Account
No. 50-1355.

Respectfully submitted,

Date: September 15, 2003



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